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BOOK REVIEWS.

THE LAW OF INNKEEPERS AND HOTELS INCLUDING OTHER PUBLIC HOUSES, THEATRES, SLEEPING CARS. By JOSEPH HENRY BEALE, JR. Boston: William J. Nagel. 1906. pp. xviii, 621.

That a railroad refuses to carry freight tendered at peril of an action in tort by the would-be shipper, that a gas company can be compelled to furnish its service to a would-be consumer, that an innkeeper cannot turn from his door one traveler while receiving another, have long been the merest commonplaces of the law. Too often, however, these and the many similar interferences with the conduct of a business have been regarded as unrelated anomalies. The business man obtained an undiscriminating confirmation from the lawyer of his feeling that his business was his own and being his own that he was free to run it in his own way so long as he fulfilled his contracts, paid his debts and kept clear of the police courts. The *laissez faire* doctrines of the early Victorian economists laid fast hold of the legal mind and retained their grip more tenaciously perhaps on the lawyer than on the successors of Mill and Cobden. Within the last thirty years, however, the conception has steadily gained ground that these interferences of the law with the freedom of the business man and his corporate successor to carry on his business in his own way are neither arbitrary impertinences nor historical anomalies of the law, but rather the related manifestations of a group of legal principles as ancient and perhaps as of vital import in the adjustment of law to the present day conditions of our business and social system as any group of principles known to the law. The very entry into certain business pursuits brings with it a complex of non-contractual rights and obligations the subject matter of which in a private employment is left to contract.

Few have done as much as Professor Beale to secure recognition for and to promote the understanding of this law of public employments. In collaboration with Professor Wyman in "Rate Regulation" he has dealt constructively, if somewhat hastily, with those phases of this body of law which are of more immediate legal and public interest. It is fair to assume that it is his interest in the general subject that has now led Professor Beale into an examination of the law of one of the oldest of public callings in this "Law of Innkeepers and Hotels." As throwing light on related branches of the law of public employments it would seem by the results that he may well have found his examination less fruitful than he hoped. As appears from his work, many of the characteristic principles of this body of law are illustrated by the rights and obligations of innkeepers, but the great body of rather intricate details of the law of innkeepers has no particular significance for the law of public employments in general. However that may be, the author has not spared his usual painstaking industry, and though the result is more exhaustive as a digest than illuminating as a commentary it is of distinct value to the profession.

A brief historical introduction pictures the social and economic con-

ditions of the times when inns and innkeepers were first found in England and indicates why it was that the law almost immediately clothed this business with rights and obligations which are still characteristic of it. The plan of the main body of the work evidences minute and logical analysis of the subject matter that has resulted in an arrangement of title chapter and section headings that is of itself enlightening and that renders an index almost superfluous in running down a particular point. The text is a concise statement of the law fortified by liberal citations of cases in the footnotes. The citations are brought down through the cases cited in the American Digest through the second volume for 1905, in the English Annual Digest for 1905 and in the Canadian and other colonial digests for 1904. Frequently Professor Beale prefers to insert a statement of the law in the Court's own language. In doing this he invariably gives the name of the judge writing the opinion. This is of course well enough where the name lends weight to the statement of the law, but the constant reiteration as if they were Mansfields and Marshalls of the names of judges, which, to put it mildly, often detract from the weight of their quoted opinions, is a weariness and irritation that we trust the readers of future editions will be spared. In many of these instances, moreover, there would have been a gain in clearness and brevity if Professor Beale had stated the holding of the Court in his own succinct phraseology.

In addition to the law of inns and innkeepers the work treats of the distinctive rules of law relating to boarding and lodging houses, restaurants, theatres and sleeping cars. The three hundred odd pages of the text are supplemented by an appendix of over two hundred pages containing the statutes of the various states and territories dealing with the law of inns and other public houses. The appearance of excerpts from the Porto Rican Code among these statutes calls attention to the fact that we have another new American jurisdiction to reckon with. No practising lawyer can afford to handle a case involving this branch of the law without referring to this book.

THE LAW OF HOMICIDE. By FRANCIS WHARTON. Third Edition, by FRANK H. BOWLBY, of the Publishers' editorial staff. Rochester: Lawyers' Co-operative Publishing Company. 1907. pp. clvi, 1120.

This volume is a type of the modern "staff-made" legal treatise and lends itself to the purposes of a review no more readily than do the notes in a volume of the "L. R. A." or a volume of the "A & E. Encyc." The text of the 1875 edition of Wharton is taken as the basis upon which to build an elaborate accumulation of citations. The table of cases in the new work covers 126 pages as against 19 pages in the earlier edition, the text of the earlier edition being at the same time modified or amplified so as to include the substance of the more important subsequent decisions. Several new chapters are added, such as chapters 4, 5 and 6, being respectively on "Methods of Killing Constituting Homicide," "Casual Connection" and "Participants in Crime;" the chapters on "Murder" and "Manslaughter" are considerably expanded, and Wharton's chapters on "Presumptions" and "Dying Declarations" are consolidated into a new chapter on "Evidence." The new portions of the work are introduced by the now familiar